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REMARKS

Claims 1-29 are currently pending in the subject application and are presently under consideration. Claims 17-28 have been cancelled herein pursuant to a Restriction Requirement dated September 22, 2004. New claims 30-40 have been added herein. A clean version of all pending claims is found at pages 2-6.

Favorable consideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-16 and 29 Under 35 U.S.C. §103(a)

Claims 1-16 and 29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Potvin *et al.* as of the Office Action dated March 25, 2004, to which a Reply was submitted on June 16, 2004. It is respectfully requested that this rejection be withdrawn for at least the following reasons. Potvin *et al.* does not teach or suggest all aspects set forth in the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) *must teach or suggest all the claim limitations*. See MPEP §706.02(j). The *teaching or suggestion to make the claimed combination* and the reasonable expectation of success *must be found in the prior art and not based on the Applicant's disclosure*. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). An examiner cannot establish obviousness by locating references which describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would impel one skilled in the art to do what the patent applicant has done. *Ex parte Levengod*, 28 USPQ2d 1300 (P.T.O.B.A.&I. 1993).

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As set forth in the Reply to Office Action dated March 25 2004, the subject invention provides for a system for communicating over a protocol, including a *class factory*. The class factory includes a plurality of identifiers; and *at least one registered protocol object creator associated with at least one of the plurality of identifiers, the at least one registered protocol object creator adapted to create at least one protocol object*. (See, e.g., independent claim 1.)

Likewise, independent claim 29 recites, in part, a system having a class factory including a plurality of identifiers; and at least one registered protocol object creator, the at least one registered protocol object creator adapted to create at least one protocol object. New independent claim 30 sets forth "*an object generator that creates one or more protocol objects associated with one or more protocols*; and a protocol object selection component that selects a protocol object based at least in part on information associated with an identity of at least one resource with which the system is attempting to communicate and a protocol employed by the at least one resource."

Potvin *et al.* does not teach, disclose or suggest each and every limitation of the subject independent claims. In particular, Potvin *et al.* is silent with regard to a *class factory* let alone a *class factory which includes a plurality of identifiers whereby at least one registered protocol object creator associated with at least one of the plurality of identifiers, the at least one registered protocol object creator adapted to create at least one protocol object*. Rather, Potvin *et al.* merely teaches a network identifier to identify an HTML page. (See Potvin *et al.*, col. 6, ln. 34-35). Potvin *et al.* does not teach or suggest the use a *class factory* and a *registered protocol object creator adapted to create at least one protocol object* as recited in this claim.

Although the Examiner concedes that "Potvin does not explicitly teach "a class factory," it was contended in the Office Action that "it would have been obvious to one of ordinary skill in the art to have applied the teaching of Potvin *et al.* for "a class factory" in order to provide means for allowing the creation and dispatch of IP packets." Applicants' representative respectfully disagrees - to the contrary, Potvin *et al.* is silent with regard to any teaching or suggestion of a class factory as recited in independent claim 1. Likewise, Potvin *et al.* fails to teach or suggest *an object generator that creates one or more protocol objects associated with one or more protocols* as set forth in newly added claim 30. In

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view of the aforementioned deficiencies of Potvin *et al.*, it is respectfully submitted that Potvin *et al.* does not teach or suggest the aspects recited in the subject claims.

It is readily apparent that Potvin *et al.* fails to teach or suggest every limitation of independent claims 1, 29, and 30 (and claims 2-16 and 31-40, which depend respectively there from). Accordingly, this rejection should be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance, in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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